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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,064	10/30/2001	Andreas Arlt	12097	5772
28484 7590 12/17/2007 BASF AKTIENGESELLSCHAFT CARL-BOSCH STRASSE 38, 67056 LUDWIGSHAFEN LUDWIGSHAFEN, 69056 GERMANY				
			EXAMINER COONEY, JOHN M	
			ART UNIT 1796	PAPER NUMBER
			NOTIFICATION DATE 12/17/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lori.hass@basf.com
marjorie.ellis@basf.com
fernando.borrego@basf.com

Office Action Summary

Application No.

10/018,064

Applicant(s)

ARLT ET AL.

Examiner

John Cooney

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,6,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,6,9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Applicant's arguments filed 9-24-07 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1,4,6, 9, and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith (6,114,402).

Smith disclose the preparation of polyurethane foams useful in applications as set forth by applicants' claims prepared from isocyanates, polyols, blowing agents, catalysts, and other additives prepared in the presence of hydroxyethyl acrylates in amounts as claimed by applicants (see example 6, as well as, the entire document).

As conceded by applicants' own specification, amine group containing compounds are groups which are inherently formed through natural weathering

and aging of foamed polyurethane products resulting from the cleavage of urethane groups. Accordingly, the remaining hydroxyethyl acrylates residing in the structure of the polyurethane products of Smith would inherently react with the formed amines resulting from natural weathering and aging of the foamed products so as to form the products defined by claim 6. Thus, claim 6 is not seen to be distinguished from the teachings of Smith.

Claims 1,4,6, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by the equivalent Asako et al. (JP-06,336,513) & (5,668,187) patent documents, each taken individually.

Asako et al. disclose the preparation of polyurethane foams useful in applications as set forth by applicants' claims prepared from isocyanates, polyols, blowing agents, catalysts, and other additives prepared in the presence of hydroxyethyl acrylates in amounts as claimed by applicants (see the JP-'513 abstract and the entire document of US-'187).

As conceded by applicants' own specification, amine group containing compounds are groups which are inherently formed through natural weathering and aging of foamed polyurethane products resulting from the cleavage of urethane groups. Accordingly, the remaining hydroxyethyl acrylates residing in the structure of the polyurethane products of Smith would inherently react with the formed amines resulting from natural weathering and aging of the foamed products so as to form the products defined by claim 6. Thus, claim 6 is not seen to be distinguished from the teachings of Smith.

It is held that residual unreacted monomer would remain in the reactive mixtures of Asako et al. such that the products and processes of applicants' claims are inherently met by the teachings of Asako et al. The residual amounts are additionally seen to fall within the lower endpoint values of applicants' claim 4 which is seen to be a value met by negligible amounts.

Applicants' arguments and amendments, including new claim 10, have been considered. However, rejections are maintained.

The language in the claims as amended only require the capability to perform the function defined and do not serve a distinguishing effect for the claims. Applicants' have not shown the claims to distinguish based on their defined ranges of amounts of the indicated compounds. It is maintained that the cited references sufficiently provide for preparations of articles containing these compounds of applicants' claims in amounts within the ranges of values of the claims as they currently stand. Applicants have not shown their ranges of amount values to distinguish over the amounts of the compounds which reside in the articles prepared by the cited prior art.

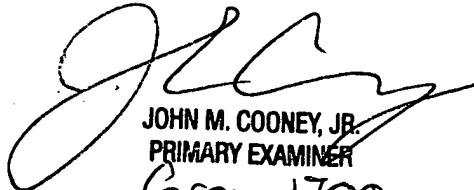
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Cooney whose telephone number is 571-272-1070. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JOHN M. COONEY, JR.
PRIMARY EXAMINER
Group 1700